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Paper No.

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JUN 30 2006

OFFICE OF PETITIONS

In re Application of :
Pearce et al. :
Application No. 09/579,348 : DECISION ON
Filed: May 25, 2000 : PETITION
Atty Docket No. 062891.0405 :

This is a decision on the NON-FEE PETITION UNDER 37 C.F.R.
§ 1.181 TO WITHDRAW HOLDING OF ABANDONMENT AND RE-MAIL NONFINAL
OFFICE ACTION filed April 13, 2006.

The above-identified application became abandoned for failure to
file a timely and proper reply to the non-final Office action
mailed August 13, 2004. This Notice set a three month shortened
statutory period for reply, with extensions of time obtainable
under 37 CFR §1.136(a). No reply having been received and no
extensions obtained, the above-identified application became
abandoned effective November 14, 2004. A courtesy Notice of
Abandonment was mailed on March 21, 2006.

In response, applicants filed the instant petition, asserting
that the Office action was never received and requesting that
the holding of abandonment be withdrawn. (It is noted that
applicants filed a status inquiry on January 24, 2005).

A review of the application file reveals no irregularities in
the mailing of the Office action mailed August 13, 2004. Thus,
there is a strong presumption that the correspondence was
properly mailed to the applicant at the correspondence address
of record. In the absence of demonstrated irregularities in

mailing of this Notice, petitioner must submit evidence to overcome this presumption. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. In addition, a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petitioner has supported his claim of non-receipt with such evidence.

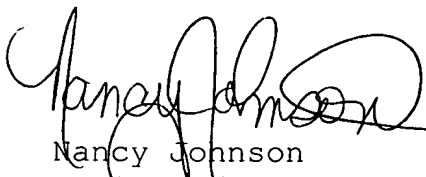
In view thereof, the notice of abandonment mailed March 21, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2668 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed August 13, 2004 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.


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